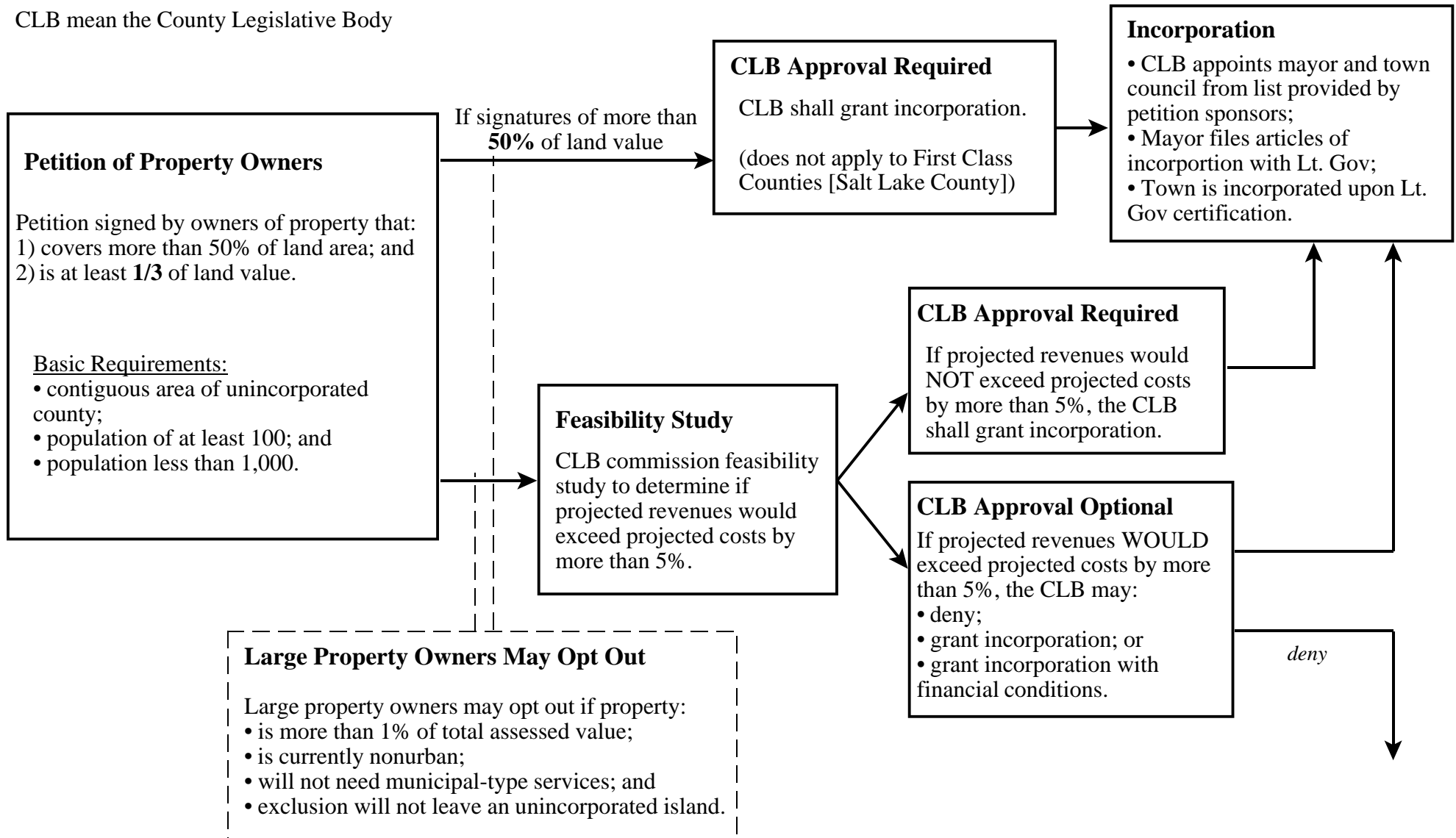


# Process to Incorporate a Town

(Includes changes made by H.B. 466, 2007 General Session)

CLB mean the County Legislative Body



*Disclaimer: This chart is a simplified version of the process. You must read the statutory text to determine all the specific requirements and provisions. Most of the provisions are found in Section 10-2-125, Utah Code Annotated.*

## **Statutory Process to Incorporate a Town**

### **Utah Code**

(Note: Text is current through 2007 General Session.)

- 10-2-125. Incorporation of a town.**
  - 10-2-109. Incorporation petition -- Requirements and form.**
  - 10-2-106. Feasibility study -- Feasibility study consultant.**
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#### **10-2-125. Incorporation of a town.**

- (1) As used in this section:
  - (a) "Base petition" means a petition under this section proposing the incorporation of a town and signed by the owners of private real property that:
    - (i) is located within the area proposed to be incorporated;
    - (ii) covers at least a majority of the total private land area within the area proposed to be incorporated; and
    - (iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private real property within the area proposed to be incorporated.
  - (b) "Qualifying petition" means a petition under this section proposing the incorporation of a town and signed by the owners of private real property that:
    - (i) is located within the area proposed to be incorporated;
    - (ii) covers at least a majority of the total private land area within the area proposed to be incorporated; and
    - (iii) is equal in value to more than 1/2 of the value of all private real property within the area proposed to be incorporated.
- (2)
  - (a) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.
  - (b)
    - (i) The population figure under Subsection (2)(a) shall be derived from

the most recent official census or census estimate of the United States Bureau of the Census.

- (ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.
- (3) (a) The process to incorporate an area as a town is initiated by filing a petition with the clerk of the county in which the area is located.
- (b) Each petition under Subsection (3)(a) shall:
  - (i) be signed by the owners of private real property that:
    - (A) is located within the area proposed to be incorporated;
    - (B) covers a majority of the total private land area within the area; and
    - (C) is equal in value to at least 1/3 of the value of all private real property within the area;
  - (ii) state the legal description of the boundaries of the area proposed to be incorporated as a town;
  - (iii) designate up to five signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;
  - (iv) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed town; and
  - (v) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located)

County, Utah:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the county

legislative body for the area described in this petition to be incorporated as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

- (c) A petition under this section may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
  - (i) was filed before the filing of the petition; and
  - (ii) is still pending on the date the petition is filed.
- (4) Section 10-2-104 applies to a petition for incorporation as a town in any county, except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days after the filing of a petition under Subsection (3).
- (5) (a) (i) The legislative body of each county with which a base petition is filed under this section shall commission and pay for a feasibility study as provided in Section 10-2-103.
  - (ii) If the results of the feasibility study under Subsection (5)(a)(i) meet the requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.
  - (iii) If the results of the feasibility study under Subsection (5)(a)(i) do not meet the requirements of Subsection 10-2-109(3), the county legislative body may:
    - (A) deny the petition;
    - (B) grant the petition; or
    - (C) with the consent of the petition sponsors, grant the petition, after:
      - (I) imposing conditions to mitigate the fiscal inequities

- identified in the feasibility study; or
- (II) altering the boundaries of the area proposed to be incorporated as a town to approximate the boundaries necessary to meet the requirements of Subsection 10-2-109(3).
- (iv) Each town that incorporates pursuant to a petition granted after the county legislative body imposes conditions under Subsection (5)(a)(iii)(C)(I) shall comply with those conditions.
- (b) The legislative body of each county of the second, third, fourth, fifth, or sixth class with which a qualifying petition is filed shall grant the petition.
- (6) (a) Upon the granting of a petition filed under this section, the legislative body of the county in which the proposed town is located shall appoint a mayor and members of the town council from a list of qualified individuals approved by the petition sponsors.
- (b) The officers appointed under Subsection (6)(a) shall hold office until the next regular municipal election and until their successors are elected and qualified.
- (7) Each newly incorporated town shall operate under the six-member council form of government as described in Section 10-3-101.
- (8) (a) Each mayor appointed under Subsection (6) shall, within seven days of appointment, file articles of incorporation of the new town with the lieutenant governor.
- (b) The articles of incorporation shall meet the requirements of Subsection 10-2-119(2).
- (9) A town is incorporated upon the lieutenant governor's issuance of a certificate of entity creation under Section 67-1a-6.5.
- (10) The legislative body of the new town shall comply with the notice requirements of Section 10-1-116.

**10-2-109. Incorporation petition -- Requirements and form.**

. . .

- (3) A petition for incorporation under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount under Subsection 10-2-106(4)(a)(ix) does not exceed the average annual amount under Subsection 10-2-106(4)(a)(viii) by more than 5%.

. . .

**10-2-106. Feasibility study -- Feasibility study consultant.**

. . .

- (4) (a) The feasibility study shall consider:

. . .

- (viii) subject to Subsection (4)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city;
- (ix) the present and five-year projected revenue for the proposed city;

. . .

- (c) For purposes of Subsection (4)(a)(viii):
- (i) the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study;
  - (ii) in determining the present cost of a governmental service, the feasibility consultant shall consider:
    - (A) the amount it would cost the proposed city itself to provide the service after incorporation;
    - (B) if the county is currently providing the service to the proposed city, the county's cost of providing the service; and
    - (C) if the county is not currently providing the service to the

proposed city, the amount the proposed city can reasonably expect to pay for the service under a contract for the service; and

- (iii) the five-year projected cost of a governmental service shall be based on the amount calculated under Subsection (4)(c)(ii), taking into account inflation and anticipated growth.

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